Applic. No. 09/848,583
Amdt. dated December 27, 2007
Reply to Office action of October 31, 2007

Remarks/Arguments:

Reconsideration of the application is requested.

Claims 1-4 and 6-11 and 14 remain in the application. Claims 5, 12, and 13 were previously cancelled. Claim 11 has been withdrawn from consideration.

In item 1 on page 2 of the above-identified Office action, the specification has been objected to under 35 U.S.C. §132(a) because it introduces new matter.

The Examiner alleges that the addition of the number "3" to Fig. 1 makes lines 23-24 on page 10 of the specification new matter.

It is respectfully noted that the Examiner is in error. The element that was labeled with the number "3" does in fact get pressed against the knives 13 during the cutting operation. However, the knife 13 which interacts with the newly labeled knife "3" is not visible in the view shown in Fig. 1. Therefore, the addition of the number "3" to Fig. 1 does not make lines 23-24 on page 10 of the specification new matter.

Accordingly, it is respectfully noted that the Examiner's objection to the specification is not proper.

Should the Examiner find any further objectionable items, counsel would appreciate a telephone call during which the matter may be resolved.

In item 3 on page 2 of the above-identified Office action, claims 1-4, 6, 7, and 10 have been rejected as being obvious over Ito (US 4,922,773) in view of Besemann (U.S. Patent No. 4,523,502) and in view of Nakajima et al. (6,520,058 B2) (herinafter "Nakajima") further in view of Rathert (U.S. Patent No. 4,300,427) under 35 U.S.C. § 103.

Applicant respectfully notes that Nakajima has a United States filing date of **March 5, 2001**. See 35 U.S.C. § 102(e). As set forth in the Declaration of record, the instant application claims international priority of the German Application No. **100 21 449.5**, filed **May 3, 2000**, under 35 U.S.C. § 119. Pursuant to 35 U.S.C. §§ 119, applicant is entitled to the priority date of the German application. See MPEP §§ 201.13. Thus, the instant application predates Nakajima by more than ten months. Because Nakajima was filed after the priority date of the instant application, applicant respectfully believes that Nakajima is unavailable as prior art.

Applicant acknowledges that perfection of priority can only be obtained by filing a certified English translation of the German priority application. See 35 U.S.C. § 119. Applicant filed a Claim for Priority including a certified copy of German application **100 21 449.5** on May 3, 2001. Concurrent herewith, applicant is filing a certified English translation of same. Accordingly, applicant respectfully believes that priority has been perfected and Nakajima is unavailable as prior art. Therefore, applicant respectfully submits that the Section 103 rejection in item 2 on page 2 of the Office action is now moot.

In item 4 on page 4 of the above-mentioned Office action, claims 8-9 have been rejected as being unpatentable over Ito (US 4,922,773) in view of Besemann (U.S. Patent No. 4,523,502) and in view of Nakajima (6,520,058 B2) further in view of Rathert (U.S. Patent No. 4,300,427) and further in view of Cannon et al. (U.S. Patent No. 4,553,080) (hereinafter "Cannon") under 35 U.S.C. § 103(a).

As noted above, the Nakajima reference is unavailable as prior art. Since claim 1 is allowable, dependent claims 8 and 9 are allowable as well.

It is accordingly believed to be clear that none of the references, whether taken alone or in any combination, either show or suggest the features of claim 1. Claim 1 is, therefore, believed to be patentable over the art and since all of the dependent claims are ultimately dependent on claim 1, they are believed to be patentable as well.

In view of the foregoing, reconsideration and allowance of claims 1-4 and 6-11 and 14 are solicited.

In the event the Examiner should still find any of the claims to be unpatentable, counsel respectfully requests a telephone call so that, if possible, patentable language can be worked out.

If an extension of time for this paper is required, petition for extension is herewith made.

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Please charge any other fees which might be due with respect to Sections 1.16 and 1.17 to the Deposit Account of Lerner Greenberg Stemer LLP, No. 12-1099.

Respectfully submitted,

For Applicant(s)

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